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9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 RICHARD L. GRUBER,

12 Plaintiff,

13 v.

14 KAREN GEDNEY, et al.,

15 Defendants.

Case No. 3:15-cv-00543-RCJ-VPC

**DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME FOR THE
PARTIES TO FILE A PROPOSED JOINT
PRETRIAL ORDER
(First Request)**

16 Defendants, Karen Gedney, and Dana Marks, by and through counsel, Adam Paul Laxalt, Attorney
17 General of the State of Nevada, and Gerri Lynn Hardcastle, Deputy Attorney General, hereby move this
18 honorable Court for an enlargement of time for the parties to file a proposed joint pretrial order. This
19 motion is made and based on Fed. R. Civ. P. 6(b)(1), the following memorandum of points and
20 authorities, and all pleadings and papers on file herein.

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 **I. RELEVANT PROCEDURAL HISTORY**

23 This case is a *pro se* inmate civil rights action pursuant to 42 U.S.C. § 1983. ECF No. 34.
24 Plaintiff, Richard Gruber (Plaintiff), alleges that Defendants, Karen Gedney and Dana Marks, were
25 deliberately indifferent to his serious medical need of Parkinson's disease by refusing to treat him. *Id.* at 3.

26 On November 19, 2018, this Honorable Court issued a Minute Order requiring the parties to file a
27 proposed joint pretrial order by Friday, December 7, 2018. ECF No. 114. To date, Plaintiff has not
28 contacted Defendants' counsel regarding the joint pretrial order or provided a joint pretrial order for

counsel's approval. Accordingly, Defendants will draft a proposed joint pretrial order and send it to Plaintiff for his consideration. Defendants' counsel will send the proposed order to Plaintiff today (December 7, 2018), so that this task may be completed as quickly as possible. In the meantime, Defendants respectfully request an additional thirty (30) days to file their proposed joint pretrial order.¹

II. LEGAL STANDARD

District courts have inherent power to control their dockets. *Hamilton Copper & Steel Corp. v. Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990); *Oliva v. Sullivan*, 958 F.2d 272, 273 (9th Cir. 1992). Fed. R. Civ. P. 6(b)(1) governs enlargements of time and provides as follows:

When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

"The proper procedure, when additional time for any purpose is needed, is to present to the Court a timely request for an extension before the time fixed has expired (*i.e.*, a request presented before the time then fixed for the purpose in question has expired)." *Canup v. Miss. Valley Barge Line Co.*, 31 F.R.D. 282, 283 (D.Pa. 1962). The *Canup* Court explained that "the practicalities of life" (such as an attorney's "conflicting professional engagements" or personal commitments such as vacations, family activities, illnesses, or death) often necessitate an enlargement of time to comply with a court deadline. *Id.* Extensions of time "usually are granted upon a showing of good cause, if timely made." *Creedon v. Taubman*, 8 F.R.D. 268, 269 (D.Ohio 1947). The good cause standard considers a party's diligence in seeking the continuance or extension. *See, e.g., Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

III. DISCUSSION

Here, Defendants request an additional thirty (30) days to file a proposed joint pretrial order in accordance with the Court's Minute Order. Defendants expected Plaintiff to provide them with a proposed joint pretrial order for their consideration, but Plaintiff has not done so. In order to complete this task as

¹ Defendants note that Plaintiff filed an additional Motion for Appointment of Counsel on November 28, 2018. ECF No. 115. Plaintiff's motion does not seek a stay of the proceedings until this Court decides his motion, but a short stay may be appropriate until this Court issues its order based on the status of this case. Defendants trust that if Plaintiff wishes to have these proceedings stayed, Plaintiff will file the requisite motion.

1 expeditiously as possible, Defendants will therefore assume responsibility for this task and send Plaintiff a
2 proposed order today. Nonetheless, the parties will obviously need additional time to file their proposed
3 joint pretrial order. Consequently, Defendants respectfully request that this Honorable Court allow the
4 parties up to and including Monday, January 7, 2018, to file their joint pretrial order.

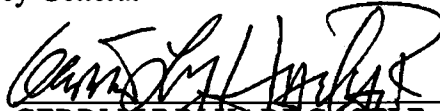
5 **IV. CONCLUSION**

6 Based on the foregoing, Defendants respectfully request that this honorable Court grant the instant
7 motion and allow them until Monday, January 7, 2018, to file their joint pretrial order.

8 DATED this 7th day of December, 2018.

9
10 ADAM PAUL LAXALT
Attorney General

11
12 By:


13 GERRI LYNN HARDCASTLE
Deputy Attorney General
14 State of Nevada
Bureau of Litigation
Public Safety Division

15 *Attorneys for Defendants*

16
17 **IT IS SO ORDERED**

18 **U.S. MAGISTRATE JUDGE**

19 **DATED: 12/12/2018**
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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 7th day of December, 2018, I caused a copy of the foregoing, **DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME FOR THE PARTIES TO FILE A PROPOSED JOINT PRETRIAL ORDER (First Request)**, to be served, by U.S. District Court CM/ECF Electronic Filing on the following:

RICHARD L. GRUBER #85152
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/s/ Mackenzie Hodges
An employee of the
Office of the Attorney General